



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,972	05/20/2004	Ronald E. Lux	59591US002	8633
32692 7590 11/07/2007 3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			EXAMINER CHEVALIER, ALICIA ANN	
			ART UNIT 1794	PAPER NUMBER
			NOTIFICATION DATE 11/07/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

Office Action Summary

Application No.

10/849,972

Applicant(s)

LUX, RONALD E.

Examiner

Alicia Chevalier

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-26 is/are pending in the application.
- 4a) Of the above claim(s) 19-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

RESPONSE TO AMENDMENT

1. Claims 1-15 and 17-26 are pending in the application, claims 19-26 are withdrawn from consideration. Claim 16 has been cancelled.
2. Amendments to the claims and specification, filed on September 6, 2007, have been entered in the above-identified application.

WITHDRAWN REJECTIONS

3. The 35 U.S.C. §103 rejection of claims 1-15, 17 and 18 as over Lux (US Patent No. 5,928,070) in view of Emerson et al. (US Publication No. 2003/0226318), made of record in office action mailed May 17, 2007, pages 2-4, paragraph #4 has been withdrawn due to Applicant's amendment in the response filed September 6, 2007.

REJECTIONS

4. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

Claim Rejections - 35 USC § 103

5. Claims 1-15, 17 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Litzow (U.S. Patent No. 1,764,928) in view of Lux (U.S. Patent No. 5,928,070) and Biddle (U.S. Patent No. 1,764,928).

Litzow discloses a three-dimensional textured stair tread cover/ladder (*col. 6, line 44-45 and figure 4*) comprising a first portion (*col. 6, line 45, reference # 217*) with a first surface, a second surface, and at least one side wall extending between said first and second surfaces (*figure 4*), and a second portion (*col. 6, line 45, reference # 219*) with a first surface positioned at a substantially permanent angle relative to first surface of the first portion (*figure 4*), a second surface, and at least one side wall extending between the first and the second surfaces of the second portion (*figures 4*). The angle between the first surface of the first portion and the first surface of the second portion is at least 45 degrees and the first portion and the second portion are integral (*figure 4*). The first portion forms an anti-slip surface for foot traffic (*col. 1, lines 7-24*) and the second portion is configured to extend along the front of a step when the three dimensional textured stair tread cover is placed on a step (*figures 3 and 6*).

Litzow fails to disclose that the first and second portions comprise a web and a binder, the web comprising a multitude of substantially continuous three-dimensional undulated thermoplastic filaments autogenously bonded where they contact one another and wherein the filaments have a diameter in a range from 0.1 to 3 mm and has a coil weight in a range from 0.1 to 3.0 kg/m². The thermoplastic filaments comprise at least one of polycaprolactum or poly(hexamethylene adipamide) (*col. 6, lines 57-61*). The article further comprises a quantity of particles affixed to the surface. The particles are in the range of 0.1 to 5 kg/m² and comprise at least one of slag, alumina, thermoplastic polymer, thermoset polymer, glass mullite, sand, rubber, pumice, topaz, garnet, corundum, silicon carbide, zirconia, ceramic, aluminum oxide, or diamond (*col. 8, lines 46-65*). The article further comprises a size coat. The binder and size coat comprise polyurethane (*col. 7, line 41 and col. 8, lines 39-44*).

Lux discloses an abrasive article (*title*) comprising a web (*col. 5, lines 64-67*) and a binder (*col. 7, line 41*). The web comprising a multitude of substantially continuous three dimensionally undulated thermoplastic filaments autogenously bonding where they contact one another, wherein the filaments have a diameter in a range from 0.1 mm to 3 mm and the web has a coil web in a range from 0.1 to 3.0 kg/m² (*col. 5, lines 64-67 and col. 6, lines 7-26*).

Biddle discloses that articles with abrasive surfaces are adapted for use as a tread for stairs, grinding wheels, etc. (*page 1, lines 50-65*).

Therefore, since abrasive materials are recognized as functional equivalents in grinding wheels and treads for stairs at the time the invention was made, one of ordinary skill in the art would have found it obvious to use Lux's abrasive material as the slip resistant material in Litzow.

ANSWERS TO APPLICANT'S ARGUMENTS

6. Applicant's arguments in the response filed September 6, 2007 regarding the previous rejection of record have been considered but are moot since the rejections have been withdrawn.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Douglas et al (US Patent 6,013,22) discloses the use of sandpaper as a slip resistant surface.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR


Application/Control Number:
10/849,972
Art Unit: 1794

Page 6

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac

11/1/07


ALICIA CHEVALIER
PRIMARY EXAMINER